

As a general rule, when products are items of general utility and serve substantially the same function as stock or standard items, the products will be subject to the Retailers' Occupation Tax when sold. 86 Ill. Adm. Code 130.2000. (This is a GIL).

January 25, 2000

Dear Xxxxx:

This letter is in response to your emailed letter dated December 28, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

It has been brought to my attention by BUSINESS that under Illinois Regulation, Section 130.1995 of the Illinois Retailer's Occupation Tax, that sales of custom printing, letterhead, envelopes, business cards, labels, etc. are exempt from Illinois Retailer's Occupation Tax. Our conversation with PERSON from the Tax Information Bureau in Springfield also seems to agree with this statement. PERSON did however, give me your address so that we may have a ruling in writing to clarify our sales tax collection procedures.

COMPANY has been collecting tax in the amount of .0825 for printed materials, 50% of sales are services. We are printing brokers, strictly a sales office. All of our sales are custom printed materials for each of our clients. All printed materials are produced by numerous printing manufacturing plants in our name. We do not pay tax on goods purchased from the manufacturers.

Our clients that resell the printed products that we have produced for them, supply us with a tax exempt number and they are not taxed. Those clients that use the printed products that we have produced for them, are taxed at a rate of .0825.

If there are certain printed materials that are not to be taxed, then we need to have a very specific list of what materials are taxable and which are not. Our printing sales consists of, but is not limited to: letterhead, envelopes, business cards, business forms, invoices, purchase orders, packing lists, labels, A/P checks, payroll checks, binders, folders, books, literature, catalogs, newsletters, photos, promotional pieces (balloons, signs, flags, cups, calendars, pens, pencils, etc.) boxes, cards, invitations, engraving, foil stamping, die cutting, typesetting, artwork, design, etc. All of the materials we sell are custom designed, custom printed, custom silk screened, etc.

Please, we need your help, information and a ruling in writing. Your help in resolving these questions is most definitely appreciated. Thanking you in advance for your attention to my request.

For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.2000, which is the regulation for "Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers." As a general rule, when products are items of general utility and serve substantially the same function as stock or standard items, the products will be subject to the Retailers' Occupation Tax when sold. Items which serve substantially the same function are those which, when produced on special order, could be sold as produced to someone other than the original purchaser at substantially the same price.

Items that would not be considered stock or standard items and would not be sold to someone other than the purchaser for substantially the same price would not be subject to the Retailers' Occupation Tax when sold, but would be subject to the Service Occupation Tax. Special order or custom print items are generally not considered stock or standard items and are generally not sold to someone other than the purchaser for substantially the same price. Therefore special order or custom print items are generally subject to the Service Occupation Tax. See also 86 Ill. Adm. Code 130.1995.

Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. The purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. Servicemen may calculate their tax base in one of four ways: (1) separately stated selling price; (2) 50% of the entire bill; (3) Service Occupation Tax on cost price if they are registered de minimis servicemen; or, (4) Use Tax on cost price if the servicemen are de minimis and are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

Generally, special order printers calculate their tax base utilizing either the third or fourth method. The third way servicemen may account for their tax liability only applies to de minimis servicemen who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). See, 86 Ill. Adm. Code 140.101(f) enclosed. This class of registered de minimis servicemen is authorized to pay Service Occupation Tax (which includes local taxes) based upon the cost price of tangible personal property transferred incident to sales of service. Servicemen that incur Service Occupation Tax collect the Service Use Tax from their customers. They remit the tax to the Department by filing returns and do not pay tax to suppliers. They provide suppliers with Certificates of Resale for the property transferred to service customers.

The final method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). Such de minimis servicemen may pay Use Tax to their suppliers or may self-assess and remit Use Tax to the Department when making purchases from unregistered out-of-State suppliers. Those servicemen are not authorized to collect "tax" from their service customers because they, not their customers, incur the tax liability. Those servicemen are also not liable for Service Occupation Tax. It should be noted that servicemen no longer have the option of determining whether they are de minimis using a transaction by transaction basis.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.